

05-03-04

1746

TRANSMITTAL FORM

(Provisions of 37 CFR 1.136 Apply)

Application Number	10/052,226	Filing Date	January 17, 2002
Group Art Unit	1746	Examiner Name	Monique M. Wills
Confirmation No.	3497	Attorney Docket No.	791_107 CIP
Inventor(s)	Michio TAKAHASHI		
Invention:	LITHIUM SECONDARY BATTERY		

Transmitted herewith is a Request for Reconsideration in the above-identified application. The fee has been calculated as follows:

CLAIMS

(1)	(2) Claims Remaining	(3)	(4) Highest Number Previously Paid	(5) No. of Extra Claims Present	(6) Rate (Large Entity)	(7) Additional Fee
TOTAL CLAIMS	5	MINUS	20	0	\$18.00	\$00.00
INDEP. CLAIMS	1	MINUS	3	0	-\$86.00	\$00.00
TOTAL ADDITIONAL FEE						\$00.00

EXTENSION OF TERM

- Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.
- This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application. The requested extension and appropriate non-small entity fee are as follows:

- | | |
|---|----------|
| <input type="checkbox"/> One Month (37 CFR 1.17(a)(1) | \$110.00 |
| <input type="checkbox"/> Two Month (37 CFR 1.17(a)(2) | \$420.00 |
| <input type="checkbox"/> Three Month (37 CFR 1.17(a)(3) | \$950.00 |

TOTAL FEES DUE

- Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount is reduced by one-half, and the resulting fee is:

FEE PAYMENT

- No additional fee is required.
- A check in the amount of \$_____ is enclosed.
- Charge Deposit Account 50-1446 in the amount of \$. Enclosed is a duplicate copy of this sheet.
- Please charge any fees which may be required, or credit any overpayment, to Deposit Account 50-1446.

Submitted By:

Name (Print Type)	Kevin C. Brown	Reg. No.	32,402	Customer No.	025191
		Telephone	(315) 233-8300	Facsimile	(315) 233-8320
Signature	<i>Kevin C. Brown</i>			Date	April 30, 2004

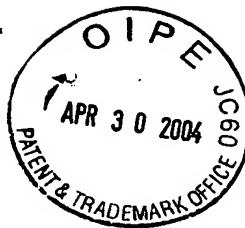
EXPRESS MAIL CERTIFICATE

"Express Mail" label number EV 47281 9731 US

Date of Deposit: April 30, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Janet M. Stevens



Practitioner's Docket No.: 791_107 CIP

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Michio TAKAHASHI

Ser. No.: 10/052,226

Group Art Unit: 1746

Filed: January 17, 2002

Examiner: Monique M. Wills

Confirmation No.: 3497

For: LITHIUM SECONDARY BATTERY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 30, 2004 under "EXPRESS MAIL" mailing label number EV 47281 9731 US.


Janet M. Stevens

REQUEST FOR RECONSIDERATION

Sir:

The following remarks are in response to the Office Action mailed February 27, 2004.

Claims 1-5 remain pending herein.

Claims 1-5 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 6,368,750 (Nemoto '750).

Nemoto '750 was patented on April 9, 2002. The present application was filed on January 17, 2002. In order for a patent or printed publication to constitute prior art under 35 U.S.C. §102(b), the patenting or publishing must have occurred more than one year prior to the date of the application under consideration. The present application was filed *prior to* the date that Nemoto '750 was patented. Accordingly, Nemoto '750 does not constitute prior art relative to the present application under 35 U.S.C. §102(b). Accordingly, it is respectfully requested that the U.S. PTO reconsider and withdraw this rejection.

In addition, it is respectfully noted that Nemoto '750 does not constitute prior art under 35 U.S.C. §102(e) relative to the present application. Submitted herewith is a Declaration Under 37 C.F.R. 1.132 by Mr. Michio Takahashi, the present inventor, who is also one of the inventors in Nemoto '750. The attached Declaration confirms that Mr. Takahashi alone invented the subject matter recited in claims 1-5 of the present application and that to the extent that Nemoto '750 contains subject matter that the U.S. PTO believes anticipates or renders obvious any of claims 1-5 of the present application, such subject matter resulted from invention by Mr. Takahashi alone. Under 35 U.S.C. 102(e), a patent constitutes prior art relative to a pending application where the patent was granted on an application filed in the U.S. before the invention by the applicant for patent. Any subject matter in Nemoto '750 which is relevant to the present application is contained therein only because of the invention by the present inventor. Accordingly, any such relevant subject matter contained in Nemoto '750 could not have been filed before its invention by the present inventor. Accordingly, and in view of the attached Declaration, Nemoto '750 is not prior art under 35 U.S.C. §102(e) relative to the present application.

In view of the above, claims 1-5 are in condition for allowance.

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

April 30, 2004

Date



Kevin C. Brown

Reg. No. 32,402

KCB:jms
Enclosure:
Declaration Under 37 C.F.R. 1.132

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